

**Thurston County Community Planning and Economic Development
Department**

Community Planning Division

**THURSTON COUNTY PLANNING
COMMISSION DRAFT**

Titles: 17.20, 18.04, 20.03, 20.30B, 20.54, and 20.60

February 5, 2020

Mineral Resource Lands.

Chapter: **17.20 (attachment-A)**
 18.04 (attachment-B)
 20.03 (attachment-C)
 20.30B (attachment-D)
 20.54 (attachment-E)
 20.60 (attachment-F)
 (Amended)

Deleted Text: ~~Strikethrough~~ Proposed Changes: Underlined
Staff Comments: *Italics* Unaffected Omitted Text ...

These code changes are associated with the Mineral Resource Lands update for Chapter 3 of the Comprehensive Plan. Changes to the current designation criteria for mineral resource lands in the Comprehensive Plan require subsequent code changes to implement. These changes are based on recommendations made by staff and a mineral resource lands focus group.

*Options for the Planning Commission are highlighted as **red**, with the text changes for each option shown in the standard underlined/strikethrough text, and differences between options shown also as **red text**. These options are laid out in Memo 1 to the Planning Commission; corresponding comprehensive plan changes to each option are shown with the same letter/number.*

ATTACHMENT – A: Thurston County Environment Ordinance (Title 17)

Chapter 17.20 - MINERAL EXTRACTION AND ASPHALT PRODUCTION

...

17.20.40 - Spill prevention.

- A. Each mineral extraction and asphalt plant operation shall have in effect a hazardous materials and petroleum products spill prevention, detection and clean-up plan. For applications submitted after the date of adoption, the plan shall be reviewed and approved as part of the special use permit process. For gravel mines and asphalt plants in existence on the date of adoption, the plan shall be submitted to the ~~health officer-designated authority~~ for review and approval within one year of such date of adoption. If a spill prevention plan is required under the Department of Ecology for an NPDES or water quality general permit, that spill prevention plan may be submitted to the County for review and approval as part of the special use permit.
- B. Spill plans shall include an estimate of the types and quantities of hazardous material stored on site, as well as methods of spill prevention, detection, containment and clean-up of any and all hazardous materials or petroleum products possessed or stored on the mining or asphalt site. Such spill plans shall be reviewed by the ~~health officer-designated authority~~ and shall be adequate to protect public health and safety. For these purposes, the mining or asphalt site shall not be limited to property under a department of natural resources reclamation permit, but shall include all contiguous property under the same ownership.
- C. A spill prevention plan which complies with Part 112 of Title 40 CFR or WAC 173-303-350 and which covers all petroleum products and hazardous materials possessed on the site is deemed to comply with the requirements of subsection (B) of this section.

17.20.50 - Fuel and hazardous materials.

- A. Above-ground or below-ground stationary tanks containing flammable or combustible liquids are subject to Chapter 14.32 and applicable state law. Both existing and newly permitted mines and asphalt plants are subject to the version of these standards in effect on the date of permit application.
- B. Reserved.

- C. Storage of fuel and hazardous materials is subject to applicable provisions of Thurston County Sanitary Code Article VI.
- D. Permanent on-site refueling stations shall be located outside the excavated area.
- E. Any fueling of stationary equipment on-site shall be accomplished with mobile tank vehicles.
- F. Fueling of mobile equipment and vehicles shall be conducted in accordance with an approved spill prevention plan provided in Section 17.20.040.
- G. Asphalt batch plants shall comply with fuel storage requirements specified above. Batch plants may incorporate ~~petroleum-contaminated soils~~ recycled materials into asphalt products if specifically permitted by the department of ecology and the ~~environmental health division~~ department.
- H. No solvents or solvent-based cleaners that are designated as a hazardous material as described in Chapter 173-303 WAC shall be used on or washed off equipment in ways that allow discharge to the environment, except for evaporation that is not in violation of other law. Vehicle and equipment maintenance shall be performed in accordance with an approved spill prevention plan provided in Section 17.20.040. For stationary equipment, the spill prevention plan shall include methods to prevent discharge of untreated wash water or leakage of petroleum products. Truck washing shall be conducted off-site when possible.

17.20.60 - Drainage and stormwater control.

- A. For applications submitted after the date of adoption, drainage shall be controlled in accordance with Chapter 15.05 TCC, the Drainage Design and Erosion Control Manual, or other applicable law. If no other standards apply, all drainage from the site of extractive operations or asphalt plants shall be controlled by dikes, barriers or drainage structures sufficient to prevent any silt, debris or other loose materials from filling any existing drainage course or encroaching on streets and adjacent properties or polluting any ground water.
- B. For gravel mines and asphalt plants in existence on the date of adoption, upon discovery of the discharge of pollutants to ground or surface waters, the ~~health officer~~ designated authority may require compliance with Chapter 15.05 TCC as necessary to remedy the discharge.

...

17.20.080 - Domestic water supplies.

If any gravel mining operation or asphalt plant causes the water quality of any domestic water supply to fail to meet the drinking water quality standards of WAC 246-290, as amended, the mine or asphalt plant owner shall remedy the effect of the operation on the water supply through monetary payment to the water system owner, the provision of treatment methods and devices that

are approved by the state department of health, or other correction of the specific water quality problem. This mitigation shall be approved by the ~~health officer~~ designated authority and the state department of health.

Note: See Thurston County Sanitary Code Article III for regulations governing drinking water wells.

...

OPTION (B):

OPTION B-1

17.20.110- Noise.

- A. Noise levels shall comply with WAC 173-60. The operator shall ensure that noise levels are monitored by a technician with the qualifications contained in WAC 173-58, or acceptable qualifications as determined by the ~~health officer~~ designated authority, using instruments that meet the qualifications of WAC 173-58, at the property boundaries, at least quarterly after the initiation of the mining or other permitted activity, unless the department specifies a different reporting frequency. Monitoring shall be conducted during normal operating conditions and periods, and until or unless the ~~health~~ department determines that such monitoring is not necessary. Noise monitoring reports shall be provided to the health department and the community planning and economic development resource stewardship department. Mineral extraction and asphalt plant activity within the residential zoning districts of the county shall be considered a Class "A" EDNA pursuant to WAC 173-60-030 (2), the state noise standards. If the noise levels exceed the levels permitted by WAC 173-60, the health department or the ~~resource stewardship~~ community planning and economic development department may take any enforcement measures necessary to ensure compliance with WAC 173-60.
- B. The approval authority may require additional measures to control noise, such as placing rubber or urethane screens and liners or crushing and screening equipment, equipping loaders and dozers with ambient-sensitive back-up alarms, or muffling engine noise, if site conditions or the site's proximity to residential zoned properties or residential uses warrants them.
- C. Noise monitoring reports shall be retained by the operator for a minimum of a 7-year period, and available upon request of the designated authority. Fees may be assessed for failure to provide noise monitoring reports.

OPTION B-2

17.20.111- Noise.

- A. Noise levels shall comply with WAC 173-60. The operator shall ensure that noise levels are monitored by a technician with the qualifications contained in WAC 173-58, or

acceptable qualifications as determined by the ~~health officer~~ designated authority, using instruments that meet the qualifications of WAC 173-58, at the property boundaries, ~~at least quarterly after the initiation of the mining or other permitted activity, and during normal operating conditions and periods, and until or unless the health~~ at a frequency as determined by the department determines that such monitoring is not necessary. Noise monitoring reports shall be provided to the health department and the community planning and economic development resource stewardship department. Mineral extraction and asphalt plant activity within the residential zoning districts of the county shall be considered a Class "A" EDNA pursuant to WAC 173-60-030 (2), the state noise standards. If the noise levels exceed the levels permitted by WAC 173-60, the health department or the ~~resource stewardship~~ community planning and economic development department may take any enforcement measures necessary to ensure compliance with WAC 173-60.

B. Continuous noise monitoring shall be required for all mineral extraction activities or asphalt plants adjacent to residential zones. At a minimum, continuous noise monitoring means that measurements must be taken continuously for 24-hour periods, 7 days a week for at least 48 weeks in a year. Noise shall be monitored at the property boundary which is adjacent to residential zones. If noise levels exceed the levels permitted by WAC 173-60, the operator shall notify the department. Noise monitoring reports shall be provided to the health department and the community planning and economic development department on a quarterly basis and be available in digital spreadsheet format.

Commented [MT1]: Change from 1/16/2019 based on public comment received. "or uses" was removed after zones.

B.C. The approval authority may require additional measures to control noise, such as placing rubber or urethane screens and liners or crushing and screening equipment, equipping loaders and dozers with ambient-sensitive back-up alarms, or muffling engine noise, if site conditions or the site's proximity to residential zoned properties or residential uses warrants them.

D. Noise monitoring reports shall be retained by the operator for a minimum of a 7-year period, and available upon request of the designated authority. Fees may be assessed for failure to provide noise monitoring reports.

Option B provides two different approaches to noise monitoring. Option B-1 requires that noise be monitored during normal operation hours on a quarterly basis, unless a different frequency is determined by the department. Option B-2 adds in an additional requirement that noise be monitored continuously when an activity is adjacent to residential zones, with reports submitted to the department on a quarterly basis. All other operations (for example, an operation within LTF) would be monitored using a point-in-time quarterly basis or other frequency determined by the approval authority.

Certain mineral extraction activities may exceed noise standards but are not captured under current monitoring standards because it is a "point-in time" event. Continuous noise monitoring may allow for improved compliance and enforcement of noise standards.

...

17.20.140- Rehabilitation and conservation requirements.

A. For mineral extraction applications filed after the date of adoption:

1. If a reclamation plan is not required by the Washington Department of Natural Resources (DNR), the applicant shall submit a rehabilitation plan in conjunction with the application for special use approval. The rehabilitation plan shall provide that rehabilitation activities, particularly those relating to control of erosion, shall, to the maximum extent feasible, be conducted simultaneously with surface mining. The rehabilitation plan shall also include measures to conserve topsoil onsite; interim reclamation for site stabilization, if necessary; post-reclamation erosion control measures; and a topographic map depicting the post-reclamation surface gradient.
2. Final contours shall reflect or harmonize with the natural contours of the adjacent land.
3. Rehabilitation shall include removal of all debris, temporary structures and stockpiles.
4. A layer of arable soil of sufficient depth to sustain grass, shrubs or trees shall be provided in those parts of the operation where required. The approval authority shall determine the appropriate restorative cover. Native grasses are preferred as a restorative cover where appropriate.
5. Water accumulating upon the site may be retained after the completion of such operation where the excavation cannot reasonably be drained by gravity flow; provided, that adequate provision shall be made to avoid stagnation, pollution and the danger of improperly controlled releases of such water from the site and danger to public, etc.
6. The rehabilitation plans shall be reviewed by the approval authority to insure compliance with all provisions of this chapter, and compatibility with relevant land use plans.
7. Plans may be amended from time to time by approval of the approval authority upon application by the owner.
8. Final rehabilitation shall conform to zoning regulations at the time of implementation.
9. For land that is co-designated as Long Term Agriculture or Nisqually Agriculture, a soil survey shall be complete prior to the start of any mineral extraction activity. The rehabilitation plan shall include a plan to return the site, or portion of a site as

Commented [MT2]: CHANGE SINCE 1/22/2020 DRAFT.

This change is made based on Planning Commission comment at the 1/22/2020 meeting. Commissioner's stated that parcels designated as LTA or NA may only have prime farmland soils on a portion of the property. A soil survey can help determine the types, locations, physical and chemical characteristics.

determined by the soil survey, to a state suitable for agricultural use. The reclaimed site should contain similar physical and chemical characteristics for areas that include prime farmland soils based on the findings of the original soil survey.

Commented [MT3]: Only required if option A-2 proceeds (co-designate ag lands)

9. Rehabilitation shall be completed within two years from the date of completion or abandonment of the subject site or portion of the site.

- B. Owners and operators of gravel mines not under DNR or county special use permit, whether or not in existence on the date of adoption, shall complete reclamation of exhausted or abandoned mines within two years after completion or abandonment of mining.

...

17.20.200 - Hydrogeological report.

If a hydrogeological report is required by Chapter ~~17.15~~ 24.10 TCC, the approval authority ~~may require the report to include any of the following additional elements are required:~~

- A. Groundwater elevation of uppermost saturated zone based on at least one year of water level data, including seasonal variations. Other reliable data may be employed upon approval by the ~~health officer~~ county hydrogeologist or designated authority;
- B. Aquifer properties (whether confined or unconfined), such as but not limited to: hydraulic pressure, groundwater flow direction and velocity, recharge areas, and discharge areas of groundwater;
- C. Source(s) and receptor(s) of physically available water, including:
- i. The mine's water sources, including groundwater and surface water;
 - ii. Surface water such as creeks, rivers, lakes and wetlands receiving water from or affected by proposed activities; and
 - iii. Sensitive receptors, such as wetlands, habitat, lakes, streams, ponds affected by the proposed activities.
- D. Identify and address impacts to existing water users, including:
- i. Identification of all nearby water rights;
 - ii. Quantify a range in volume of water that may be affected by proposed activities;
 - iii. The requirements of section 17.20.200(D) are satisfied if the applicant/owner can show proof of a state issued water right permit that authorizes all water uses being proposed for the activity.

Commented [MT4]: Change from 1/16/2019.
"... and demonstration that any adverse impacts to senior water rights are mitigated" was removed after rights.

- E. ~~B.~~ Locations of existing wells within one thousand feet of the excavation boundary. Well information including well logs, static water level, well depth, well elevation, estimated withdrawal rate and other relevant information shall be included as it may be available;
- F. ~~C.~~ Description of effects including water quality and water level changes expected to occur in any of these existing wells as a result of mining activity;
- G. ~~D.~~ Proposed final depth of excavation;
- H. ~~E.~~ If proposed mining will intercept an aquifer, background water quality for iron (Fe), manganese (Mn), turbidity, nitrate (NO₃ expressed as N), total petroleum hydrocarbons, and water chemistry parameters related to the ability of silts and clays to settle from water shall be determined as part of the report. Additional water quality parameters may be required on recommendation by the ~~health officer~~ county hydrogeologist or designated authority if local conditions merit such inclusion. When adequate and reliable water quality background data exists it may be used by approval of the ~~health officer~~ county hydrogeologist or designated authority. If background water quality data does not exist, water quality background shall be based on methods acceptable to the department of ecology or be based on at least six sampling events of data generally collected once per month. The ~~health officer~~ county hydrogeologist or designated authority may accept other methods of determining background parameters if performed according to methods approved by the Environmental Protection Agency or the United States Geological Survey;
- I. ~~F.~~ An analysis of turbidity (for mineral extraction) and water chemistry (for mineral extraction and asphalt production) as related to the proposal. This includes a professional estimate of how far turbidity might be expected to be transported, based on overlying soil type, earth materials lateral to the mining activity, particle composition, pore sizes within the aquifer, the groundwater flow velocity, and the chemistry of the groundwater;
- J. ~~G.~~ Estimated effects of stormwater and process water;
- K. Estimated cumulative effects on water quantity in the area downgradient and immediately surrounding the mineral extraction site;
- L. An adaptive management plan to address unexpected impacts to surrounding water users, groundwater, surface water, water quality, and wetlands or habitat. The plan, at a minimum, shall include description of a reporting system to alert responsibly officials;
- M. Identified areas where risk may exist and financial security such as bonds may be appropriate (see Chapter 20.54.070);

- N. Data collected for other agencies may be submitted and accepted at the discretion of the approval authority to fulfill these requirements;
- O. Other report elements relevant to the site's hydrogeology that may be required after review of the initial hydrogeological report submission.

17.20.210- Groundwater monitoring.

- A. For those projects for which a hydrogeological report is required by Chapter ~~17.45~~ 24.10 TCC, a water quality monitoring system shall be devised and submitted to the ~~environmental health division~~ department for approval, and shall become part of the special use permit conditions. Monitoring wells, surface water sampling points, parameters and schedules for sampling shall be included. At a minimum, groundwater levels, surface water levels and the quality of both should be measured as a baseline collected monthly one water year in advance of initiation of permitted activities and regularly thereafter. Reports shall be submitted to the County hydrogeologist within 45 days of sampling. Water sampling may include on and off-site locations as required by the ~~health officer~~ county hydrogeologist or designated authority, including receptors such as supply wells, streams or rivers downgradient and immediately surrounding the mineral extraction site. The county hydrogeologist or designated authority may require specific timing, frequency, and distance of ground water and surface water monitoring based on time-of-transport, monitoring frequency, proximity to receptors, and other site conditions or practices. Point of compliance as defined in WAC 173-200-060 shall be based on specifics of the site as determined from review of the hydrogeological report.
- B. If mining is permitted to be conducted in an aquifer, water sampling wells shall be monitored quarterly for water level and water quality. ~~Sampling frequency may only be reduced when two years of base line data have been accumulated.~~ Sampling parameters for exposed aquifers less than one acre in size shall be done semi-annually or as approved by the ~~health officer~~ county hydrogeologist or designated authority.
- C. Sampling frequency may only be reduced after two years of base line data have been accumulated and monitoring reports show consistency. Reduction in sampling frequency must be approved by the county hydrogeologist or designated authority.
- D. The owner/operator shall notify the County hydrogeologist or designated authority within five (5) days of a sudden change in water levels at monitoring locations.

Commented [MT5]: Changed from 1/16/19 version.
Added "collected monthly" after baseline.

Commented [MT6]: Change from last code 1/16/19.
Added "Reports shall be submitted to the County hydrogeologist within 45 days of sampling."

Commented [MT7]: Changed from 1/16/19 version.
Added "permitted to be" before conducted.

Commented [MT8]: Changed from 1/16/19 version.
Added in point D: "The owner/operator shall notify the County hydrogeologist or designated authority within five (5) days of a sudden change in water levels at monitoring locations."

ATTACHMENT – B: Thurston County Platting & Subdivision Ordinance (Title 18)

Chapter 18.04 - GENERAL PROVISIONS

...

18.04.055 - Resource use notice.

OPTION (C):

OPTION C-1

- A. The final plat of any subdivision, short subdivision or large lot subdivision, which is on or within one thousand feet of any land designated under Chapter 20.30B (Designated Mineral Lands) TCC, or on or within five hundred feet of any land zoned under Chapters 20.08A (Long-Term Agriculture District), 20.08C (Nisqually Agriculture District) or 20.08D (Long-Term Forestry District) TCC, shall contain a notice that the subject property is near agriculture, forest or mineral resource lands of long-term commercial significance, whichever applies, on which a variety of commercial activities may occur that may not be compatible with residential development for certain periods of limited duration. The notice shall also contain a statement that the ability of owners or occupants to recover for nuisances arising from activities on the designated mineral, agricultural or forestry land, whichever applies, may be restricted. The notice for properties within or near designated mineral lands shall also inform that an application might be made for mining-related activities, including mining, extraction, washing, crushing, stockpiling, blasting, transporting and recycling of minerals.
- B. The resource use notice shall be provided in a form and content prescribed by the department director.

OPTION C-2

- A. The final plat of any subdivision, short subdivision or large lot subdivision, which is on or within ~~one thousand~~ five hundred feet of any land designated under Chapter 20.30B (Designated Mineral Lands) TCC, or on or within five hundred feet of any land zoned under Chapters 20.08A (Long-Term Agriculture District), 20.08C (Nisqually Agriculture District) or 20.08D (Long-Term Forestry District) TCC, shall contain a notice that the subject property is near agriculture, forest or mineral resource lands of long-term commercial significance, whichever applies, on which a variety of commercial activities may occur that may not be compatible with residential

development for certain periods of limited duration. The notice shall also contain a statement that the ability of owners or occupants to recover for nuisances arising from activities on the designated mineral, agricultural or forestry land, whichever applies, may be restricted. The notice for properties within or near designated mineral lands shall also inform that an application might be made for mining-related activities, including mining, extraction, washing, crushing, stockpiling, blasting, transporting and recycling of minerals.

- B. The resource use notice shall be provided in a form and content prescribed by the department director.

...

An alternative option for the resource use notice for plats and subdivisions is considered under option C. Option C-1 maintains the current code language, which the notification for subdivisions and plats at 1,000 feet. Option C-2 replaces “one thousand feet” with “five hundred feet”. This text replacement would make the resource use notification consistent across all resource industries (agriculture, forestry and mining). This option was recommended as an alternative by mineral lands stakeholders. WAC 36.70A.060(b) currently requires that counties and cities require all plats, short plats, development permits, and building permits issued for activities on or within 500 feet of resource lands contain a notice. Either proposed option is consistent with state law.

In November 2003, the Board amended 18.04.055 to change the plat notice for designated mineral lands from 500 feet to 1,000 feet. This was amended with Ordinance 13040.

ATTACHMENT – C: Thurston County Zoning Ordinance (Title 20)

Chapter 20.03 - STRUCTURE, INTERPRETATIONS AND DEFINITIONS

Sections:

...

20.03.040 - Definitions.

The following definitions shall be used in the interpretation and administration of this title. The definition of various terms as presented in this section does not necessarily represent the same definitions as may be found for the same terms in other chapters of the Thurston County Code.

...

2.5 "Adaptive Management Plan" means a plan which describes the process for necessary management decisions, but remains flexible to address uncertainties and unexpected impacts that may occur over time.

...

111.6 "Rehabilitation Plan" means a plan that identifies measures and steps needed to restore disturbed areas resulting from surface or underground mining to an appropriate future use. This plan may be required by the County when DNR does not require a reclamation plan.

111.67 "Repair and maintenance" means those activities associated with the routine care and upkeep of a structure, development, land use or activity.

111.78 "Repeater" means a small receiver/relay transmitter designed to provide service to areas that are not able to receive adequate coverage directly from the transmitting source.

111.89 "Replacement or total replacement" means the removal of more than fifty percent of the lineal footage of existing exterior ground floor walls.

...

145.3 A "Water Year" is defined as the 12-month period from October 1st through September 30th of the following year. The water year is designated by the calendar year in which it ends. Thus, the water year ending September 30, 2019 is called the "2019" water year.

...

ATTACHMENT – D: Thurston County Zoning Ordinance (Title 20)

Chapter 20.30B - DESIGNATED MINERAL LANDS

Sections:

20.30B.010 - Purpose.

This chapter establishes the requirements and procedures for ~~a mineral extraction site to receive designation as~~ designation of mineral resource lands of long-term commercial significance. The requirements and procedures are designed to conserve long-term commercially significant mineral lands and to minimize land use conflicts by allowing designation status only where a long-term mining operation would be compatible with surrounding land uses and by providing notification to surrounding property owners of the long-term nature of a designated mining operation. This chapter also provides increased protection to designated mineral extraction operations by limiting nuisance claims from neighboring property owners. Sites must be designated under this chapter before new mineral extraction activities may occur.

OPTION (D):

OPTION D-1

20.30B.015 – Applicability.

1. Excavation and processing of minerals is allowed only on mineral resource lands (MRL) of long-term commercial significance designated in the comprehensive plan, or mining claims officially recognized by the state or federal government and recorded with the auditor, with the exception of:
 - a. The extraction and processing of rock and gravel exclusively for forest practices shall be permitted in the Long Term Forestry (LTF) zone, pursuant to chapter 76.09 RCW.
 - b. Existing, legally established non-conforming mineral operations will be allowed to continue subject to the provisions and requirements of chapter 20.54 TCC and 17.20 TCC.

OPTION D-2

20.30B.015 – Applicability.

1. Excavation and processing of minerals is allowed only on mineral resource lands (MRL) of long-term commercial significance designated in the comprehensive plan, or mining claims officially recognized by the state or federal government and recorded with the auditor, with the exception of:

Commented [MT9]: Change from 1/16/2019: FORMER OPTION D-2 was removed.

Commented [MT10]: This used to be option D-3 (in the 1/16/19 version). Old option D-2 was removed so D-3 is the new D-2.

- a. The extraction and processing of rock and gravel exclusively for forest practices shall be permitting in the Long Term Forestry (LTF) zone, pursuant to chapter 76.09 RCW.
- b. Existing, legally established non-conforming mineral operations will be allowed to continue subject to the provisions and requirements of chapter 20.54 TCC and 17.20 TCC.
- c. Expansion of existing legally established and maintained mineral operations onto adjacent undesignated land, including within the 1,000-foot separation distance from an Urban Growth Area or public park/preserve, where a portion of the existing site has been designated mineral resource land. Any expansion of existing legally established mineral operations are subject to the provisions and requirements of the Thurston County Code at the time the department receives a complete permit application for expanded operations. Operators shall prove that mineral resources exist on the property prior to any expansion on undesignated lands is permitted. "Existing" as used in this provision means a mineral operation that is in existence prior to [insert adoption date here].

This section defines the applicability of mineral resource lands designation. Two options are presented for applicability. Option 1 is considered a baseline, whereas option 2 allows for more flexibility for mineral operations by allowing for the expansion of existing, legally established mines onto adjacent undesignated parcels, when a portion of the existing site is designated. Option 2 is modeled after language in the Snohomish County Code, SCC 30.31D.010(3(c)).

OPTION (E):

OPTION E-1

- 2. Designation as mineral resource lands in the Thurston County Comprehensive Plan is a pre-condition for submitting an application to the county to extract mineral resources on a specific site. When interpreting the Mineral Resource Lands map at a project level, designation is evaluated based on a percentage threshold, as follows:
 - a. If less than 0.25 acres is mapped as designated mineral lands, then the parcel is not considered designated or eligible to apply for a mineral extraction permit.
 - b. If less than 5% (less than 0.25 for every 5 acres) of a parcel is mapped as designated mineral lands, then the parcel is not considered designated or eligible to apply for a mineral extraction permit.
 - c. If 5% or more (0.25 acres or more for every 5 acres) of a parcel is mapped as designated mineral lands, then the whole parcel is considered designated, and is eligible to apply for a mineral extraction permit, including any portion of the parcel which lies within the 1,000-foot separation distance from an Urban Growth

Commented [MT11]: Change from 1/16/2019: FORMER OPTION E-1, E-3 were removed. Others renumbered

Commented [MT12R11]: E-1 used to be option E-2, E-2 used to be option E-4, and E-3 used to be option E-5 (in the 1/16/19 version). Old Options E-1 and E-3 were removed so the other three were renumbered.

Commented [MT13]: Changes made to each of these options to clarify language. Whole parcel is considered "designated" if x, y, z, is mapped, eligible to apply for permit

Area or public park/preserve, subject to the provisions and requirements of the Thurston County Code at the time the department receives a complete permit application.

- d. If a single parcel has 5 acres or more of mapped designated mineral lands regardless of the total parcel size, then the entire parcel is considered designated, and is eligible to apply for a mineral extraction permit, including any portion of the parcel which lies within the 1,000-foot separation distance from an Urban Growth Area or public park/preserve, subject to the provisions and requirements of the Thurston County Code at the time the department receives a complete permit application.

OPTION E-2

2. Designation as mineral resource lands in the Thurston County Comprehensive Plan is a pre-condition for submitting an application to the county to extract mineral resources on a specific site. When interpreting the Mineral Resource Lands map at a project level, designation is evaluated as follows:

- a. If any amount of the parcel is mapped as a designated mineral resource land, then the whole parcel is considered designated, and is eligible to apply for a mineral extraction permit, including any portion of the parcel which lies within the 1,000-foot separation distance from an Urban Growth Area or public park/preserve, subject to the provisions and requirements of the Thurston County Code at the time the department receives a complete permit application.

OPTION E-3

2. Designation as mineral resource lands in the Thurston County Comprehensive Plan is a pre-condition for submitting an application to the county to extract mineral resources on a specific site. When interpreting the Mineral Resource Lands map at a project level, designation is evaluated as follows:

- a. The entire parcel must be mapped as a designated mineral resource land in order to be considered designated and eligible to apply for a mineral extraction permit.

Section 20.30B.015(2) is a new proposed section within the Thurston County Code, 20.30B. Three options are available for the above section, 20.30B.015(2), to interpret designation at the site level. Option 1 designates on a double-threshold, allowing permitting on partially designated parcels that fall within the 1,000 foot separation distance of a UGA or public park/preserve; Option 2 defines a parcel as designated, including the area within the 1,000-foot separation distance from the UGA or public park/preserve if any amount is mapped; Option 3 only considers a parcel designated if the whole parcel is mapped.

20.30B.020 - Designation of existing mineral lands.

~~Mineral extraction operations~~ Designated Mineral Resource Lands existing on the effective date of this chapter which meet the criteria established in the Thurston County Comprehensive Plan, Section 20.30B.030(1), and as shown on the map entitled, "Official Designated Mineral Resource Lands," on file with the county, are recognized as mineral resource lands of long-term commercial significance, and are hereafter referred to as designated mineral resource lands (MRL). ~~The precise boundaries of these designated lands are as indicated in the DNR permit associated with the land as shown on the table on this map.~~

OPTION (D):

OPTION D-1

20.30B.025 - Designation process for future mineral lands.

1. No new or expanded mineral extraction activities may be permitted by the County on sites not designated under the requirements of this chapter. Nothing in this chapter shall be construed as preventing the ongoing operation of existing, permitted mines in Thurston County in accordance with their DNR and/or special use permit conditions. However, expansion of existing, permitted mineral extraction operations will require designation pursuant to this chapter and will require a new special use permit pursuant to Chapter 20.54. Legal nonconforming mines are allowed to continue pursuant to any and all laws that apply to such mines.
2. The county will review individual designation applications through the Comprehensive Plan amendment process. The county will periodically update the Mineral Resource Lands Inventory map and the Designated Mineral Resource Lands map as specified in the Thurston County Comprehensive Plan.
3. Upon approval, all designated mineral resource lands shall be mapped on the "Official Designated Mineral Resource Lands" map and shall accompany the "Official Thurston County Zoning Map," on file in the County.
4. ~~In addition to the mapping requirements, mineral resource lands designation shall be provided as a written statement of the actual survey corners of the land being designated.~~

OPTION D-2

20.30B.025 - Designation process for future mineral lands.

1. ~~No new or expanded~~ Expansion of mineral extraction activities may be permitted by the County on sites not designated only when a portion of the existing legally established operation is on designated mineral resource land and the site for expansion has been proven to have existing mineral resources. "Existing" as used in this provision means a mineral operation that is in existence prior to [insert adoption date here]. -under the requirements of this chapter. No new mineral extraction activities may be permitted by the County on sites

Commented [MT14]: Change from 1/16/2019: FORMER OPTION D-2 was removed. These are associated with option choices under 20.30B.015

Commented [MT15]: This used to be option D-2/3 (in the 1/16/19 version). Old option D-2 was removed so this is just D-2 now.

~~not designated under the requirements of this chapter.~~ Nothing in this chapter shall be construed as preventing the ongoing operation of existing, permitted mines in Thurston County in accordance with their DNR and/or special use permit conditions. However, expansion of existing, permitted mineral extraction operations will require ~~designation pursuant to this chapter and will require~~ a new special use permit pursuant to Chapter 20.54 ~~and are subject to the requirements of the Thurston County Code at the time the department receives a complete permit application for expanded operations.~~ Legal nonconforming mines are allowed to continue pursuant to any and all laws that apply to such mines.

2. The county will review individual designation applications through the Comprehensive Plan amendment process. The county will periodically update the Mineral Resource Lands Inventory map and the Designated Mineral Resource Lands map as specified in the Thurston County Comprehensive Plan.
3. Upon approval, all designated mineral resource lands shall be mapped on the "Official Designated Mineral Resource Lands" map and shall accompany the "Official Thurston County Zoning Map," on file in the County.
4. ~~In addition to the mapping requirements, mineral resource lands designation shall be provided as a written statement of the actual survey corners of the land being designated.~~

The above options are attached to the D options under 20.30B.015 – Applicability. The option that moves forward for the text above would be directly tied to the option under 20.30B.015 (and 20.30B.050). Above, option 1 allows only for mining on designated mineral lands; option 2 allows expansion of existing operations onto adjacent undesignated mineral lands.

20.30B.030 - Designation criteria.

1. Criteria for Designation. A ~~mineral extraction~~ site may be designated as mineral resource lands if it meets all of the following criteria:
 - a. The site must be mapped in the Mineral Resource Inventory and contain nonstrategic minerals which are minable, recoverable, and marketable under the technologic and economic conditions that exist at the time of application for designation or which can be estimated to exist in the foreseeable future as determined by a licensed professional geologist. In determining whether minerals are minable, recoverable, and marketable, the county will consider the guidelines in Washington Administrative Code Section 365-190-070, as amended.
 - b. The site must meet the minimum designation criteria for mineral resource lands in the Thurston County Comprehensive Plan.
 - ~~b. At least sixty percent of the area within one thousand feet of a site must have parcels five acres in size or larger at the time of the application for designation (see~~

Appendix Figure 18) excluding parcels less than five acres in size owned by the applicant.

- e. ~~An area proposed for mineral resource lands designation shall be at least five acres.~~
- d. ~~The site shall be separated by a distance of at least one thousand feet from public preserves, which include parks, national wildlife refuges, state conservation areas, wildlife areas, and other government owned preserves, but excluding exclusive hunting areas. In addition, designated mineral resource lands shall be at least one thousand feet from urban growth areas.~~
- e. ~~Designated mineral resource lands may include lands designated for long term forestry.~~
- f. ~~Critical Areas: Critical areas will be examined at the time of designation review using the county's geographic information system. The applicant may be required to provide detailed information (such as a wetland delineation, habitat evaluation, or geotechnical report) prepared by a qualified expert to clarify county mapping of critical areas. A more comprehensive critical areas review will be done at time of permitting.~~
 - i. ~~Mineral resource lands shall not be designated within the Zone 1 (one year) or Zone 2 (five year) horizontal time of travel boundaries for any Group A public water system.~~
 - ii. ~~Mineral resource lands shall not include category (class) one (1) or two (2) wetlands or their protective buffers, but may include category (class) three (3) and four (4) wetlands.~~
 - iii. ~~Mineral resource lands shall not include agriculture lands of long term commercial significance, or historical/cultural preservation sites, and any Federal Emergency Management Agency (FEMA) one hundred year floodplain.~~
 - iv. ~~Mineral resource lands shall not include habitats of primary association to species listed as endangered or threatened under the Endangered Species Act or state law and their buffers as established by the critical areas ordinance at the time of designation.~~
 - v. ~~Mineral extraction activities shall not negatively affect nor endanger surface and ground water flows and quality.~~
 - vi. ~~Mineral resource lands shall be located away from geologically hazardous areas such as marine bluffs, the bluff area in the Nisqually Hillside Overlay, or areas that would cause a public safety hazard, but may include steep and/or unstable slopes as provided by the critical areas ordinance.~~

For consistency purposes, the designation criteria for mineral resource lands are proposed for removal from the Thurston County Code. Mineral Resource lands designation criteria will be maintained and amended in the Thurston County Comprehensive Plan. Thurston County

currently maintains designation criteria for long-term agriculture and long-term forestry within the comprehensive plan only.

20.30B.040~~35~~ - Application requirements.

1. An application for designation or removal shall be filed with the department as a comprehensive plan amendment, ~~and shall include:~~
 - a. Application for designation or removal shall be accompanied by the requirements listed in the Thurston County Comprehensive Plan.
 - b. Associated fees may be charged for applications outside of the Mineral Resource Lands update cycle.
 - a. ~~A report and any associated maps developed by a licensed geologist to provide evidence of the marketability and threshold value of the mineral deposit.~~
 - b. ~~A map at a scale of one inch equals eight hundred feet or greater of the project site and surrounding area, including the area within one thousand feet of the site, and which shows parcel boundaries, adjacent land uses and zoning, and known critical areas and their type or class, if known, as defined in Title 24 TCC or Chapter 17.15 TCC to demonstrate that the requirements of this chapter have been complied with.~~

20.30B.040 - Removal of designation status:

1. ~~The property owner may file an application for removal of designated mineral resource lands with the department. The application shall be reviewed by the board of county commissioners which may grant the application if one or more of the following conditions exist:~~
 - a. ~~The mineral resource is depleted to a point that it is no longer economically feasible to continue mining on the site.~~
 - b. ~~Market conditions have changed to such a degree that it is no longer economically feasible to continue mining on the site.~~
 - c. ~~Conditions in the surrounding area have changed to such a degree that the site no longer meets the criteria for designation in Section 20.30B.030.~~
2. ~~Removal of designation by the board of county commissioners will be processed as a comprehensive plan amendment during the next available amendment cycle. No fee will be charged to the applicant for designation removal.~~

OPTION (D):

OPTION D-1

20.30B.050 - Mineral extraction protection.

Commented [MT16]: Change from 1/16/2019: FORMER OPTION D-2 was removed. These are associated with option choices under 20.30B.015

1. For purposes of this section, a site is a protected, legally operating mine when it meets the following requirements:
 - a. The site is designated as mineral resource lands;
 - b. The extraction operation has a valid special use permit;
 - c. The extraction operation is carried out in accordance with governing law and any applicable best management practices;
 - d. The extraction operation does not have any substantial adverse effect on the public health or safety; and
 - e. The site obtained designation status before the notice under Chapters 18.04, 14.17, 14.18 ~~14.20~~ or 14.44 TCC was given.
2. An owner or occupier of real property for which notice has been given pursuant to Chapters 14.17, 14.18 ~~14.20~~, 14.44 or 18.04 TCC may not be limited in bringing a private nuisance claim against a protected, legally operating mine.

OPTION D-2

20.30B.050 - Mineral extraction protection.

1. For purposes of this section, a site is a protected, legally operating mine when it meets the following requirements:
 - a. The site is designated as mineral resource lands OR, subject to the current code requirements at the time of expansion, the site is an expansion of an existing legally established mineral operation onto adjacent undesignated land where it has been proven that mineral resources exist, and where a portion of the existing site has been designated mineral resource land;
 - b. The extraction operation has a valid special use permit;
 - c. The extraction operation is carried out in accordance with governing law and any applicable best management practices;
 - d. The extraction operation does not have any substantial adverse effect on the public health or safety; and
 - e. The site obtained designation status before the notice under Chapters 18.04, 14.17, 14.18 ~~14.20~~ or 14.44 TCC was given.
2. An owner or occupier of real property for which notice has been given pursuant to Chapters 14.17, 14.18 ~~14.20~~, 14.44 or 18.04 TCC may not be limited in bringing a private nuisance claim against a protected, legally operating mine.

The above options are attached to the 'D' options under 20.30B.015 – Applicability. The option that moves forward for the text above would be directly tied to the option under 20.30B.015 (and 20.30B.025). Above, option 1 allows only for mining on designated mineral lands; option 2 allows expansion of existing operations onto adjacent undesignated mineral lands.

20.30B.055 - Designation is not a permit.

Designation as mineral resource lands does not imply that mineral extraction will be permitted on the site. All proposed mineral extraction operations are subject to special use permitting requirements of Chapter 20.54, the mineral extraction code requirements of Chapter 17.20, associated environmental review and all other applicable laws. The presence of critical areas on the site may prohibit or restrict mineral extraction operations.

Commented [MT17]: new addition since Jan. 16, 2019 version for clarity.

ATTACHMENT – E: Thurston County Zoning Ordinance (Title 20)**Chapter 20.54 – SPECIAL USE*****Sections:**

...

Table 1**Special Uses—Distribution in County Zoning Districts**

Uses listed below are prohibited unless specifically identified as allowable through special use review, or unless listed as a permitted or primary use within an individual zoning district chapter.

USE	R 1/ 2 0	R 1/ 1 0	R R 1/ 1 5	R R 1/ 1 5	U R 1/ 1 5	R L 1/ 1 2	R L 1/ 1 1	R L 2/ 1 1	R 3 — 6 /1	R 4 — 1 6 /1	L I	R R I	P I	N C	R C C	A C	H C	S L 1	M G S A 2	L T A	N A	L T F	P P	M R	A O D
...																									
21 Mineral extraction	X	X	X	X		X	X				X	X			X					X	X	X	X		
...																									

Commented [MT18]: Dependent on if A-1 or A-2 moves forward

The above changes to Table 1 in section 20.54 are associated with *option A-2*, which is an option for the mineral lands designation criteria in the Comprehensive Plan, Chapter 3. Option A-2 amends the current designation criteria for mineral resource lands of long term commercial significance to allow for mineral resource lands to be co-designated with Long-Term Agriculture/Nisqually agriculture. Option A-1 would result in no proposed change to Table 1 in section 20.54. **Option A-1 would result in no proposed change to Table 1 in section 20.54 TCC.**

...

20.54.070 - Use—Specific standards.

The following standards apply to specific special uses and are in addition to those established in other sections of this chapter. The zoning districts in which a special use is authorized are identified in Table 1.

...

21. Mineral Extraction. Mineral extraction (including expansions of existing conforming and legal nonconforming mines) and their accessory uses are subject to the following provisions and the provisions of Chapter 17.20 of this code, the Thurston County Mineral Extraction Code:

- a. Accessory Uses.
 - i. The following accessory uses are allowed only when expressly permitted in a special use permit issued by the approval authority: washing, sorting or crushing of rock or gravel, concrete batching, storage or use of fuel, oil or other hazardous materials, and equipment maintenance. Limited manufacturing of concrete products from sand and gravel excavated on-site may be allowed by the department as an accessory use to a permitted concrete batching facility; provided, that retail sales of such products are prohibited. All other accessory uses are allowed only when approved after administrative review by the department.
 - ii. Accessory uses are permitted only in conjunction with an existing mineral extraction operation. The permit for the accessory use expires when the SUP for the mineral extraction expires, is revoked, or when significant mineral extraction activity as defined in Section 17.20.150 ceases. Recycling of concrete is permitted as an accessory use only in conjunction with a permitted crusher and in accordance with any health department requirements.
- b. Reports. Copies of any reports or records, except financial reports, required to be submitted to federal, state, regional or county officials or agencies pursuant to any laws or regulations shall be made available to the county upon request. Information required shall be limited to that pertaining to operations within Thurston County. The public disclosure of such information shall be governed by applicable law. The operator shall keep a record of the source of any asphalt, concrete or soils imported from off-site and stored on-site.
- c. Application and Review Procedures. In addition to the information required in Chapter 20.60 of this code, the application to the county for a special use permit for mineral extraction shall include:
 - i. A contour map, drawn to the scale of one hundred feet to the inch and contour intervals of two feet, or at a scale and topographic interval determined to be

- adequate by the department. The map must show current field topography, including the location of water courses of the tract intended for the proposed operation and estimated thickness of overburden and mineral-bearing strata in the tract intended for the proposed operation;
- ii. The rehabilitation and conservation plans described in Section 17.20.140 of this code;
 - iii. A list of all proposed activities anticipated or planned to occur on the site, including but not limited to the method of mineral extraction, washing, sorting, crushing, concrete batching, equipment maintenance, or any activity that could result in a potential, significant, adverse environmental impact;
 - iv. A preliminary drainage plan in accordance with Chapter 15.05 of this code;
 - v. A copy of the applicant's DNR reclamation permit application, as required by RCW 78.44.080.
- d. Bonds. In cases where rehabilitation requirements of the county exceed those of the Department of Natural Resources, a performance bond may be required in an amount to be sufficient to insure rehabilitation in accordance with the plan submitted pursuant to Section 17.20.140 of this code, subject to applicable law. With the approval of the county and for such period or periods as may be specified, the owner may be permitted to post its own bond without corporate surety.
- e. Permit Review. Any permit issued pursuant to this chapter shall be reviewed by the approval authority no less frequently than every five years from the date of the decision to approve the permit. The approval authority shall determine the frequency of permit review. All conditions of the permit will be reviewed at the five-year review to evaluate that operations are in compliance with permit conditions. If it is determined that the operation is not in compliance with permit conditions, measurements may be taken to bring the operation into compliance, as deemed necessary by the approval authority. ~~The director may authorize a reasonable fee for this review will be assessed. At the time of such review, the approval authority may impose additional conditions upon the operation if the approval authority determines it is necessary to do so to meet the standards of this chapter, as amended.~~
- f. Designated Mineral Lands Status. In accordance with the Thurston County Comprehensive Plan and Chapter 20.30B, an application for designation as mineral resource lands of long-term commercial significance may accompany an application for a special use permit for mineral extraction. Refer to Chapter the Thurston County Comprehensive Plan and 20.30B for requirements.

Commented [MT19]: CHANGE from 1/16/19 version.

ATTACHMENT – F: Thurston County Zoning Ordinance (Title 20)

Chapter 20.60 – VIOLATIONS & ENFORCEMENT ADMINISTRATIVE PROCEDURES

Staff recommends change to the title of Chapter 20.60 in the Thurston County Code. This is item A-15 on the 2019 Official Development Code Docket. The current name of the Chapter does not accurately describe what is included in the chapter and should be renamed appropriately.

Sections:

20.60.020 - Application review procedures.

Table 2

Permit Review Matrix

Thurston County Zoning Ordinance

Permit/Review	Staff/ Director	Hearing Examiner (open hearing)	Planning Commission (open hearing)	Board of County Commissioners (closed hearing)	Review Process Timeline			
					Type I	Type II	Type III	Type IV
Designation of future mineral resource lands (reviewed as a comprehensive plan amendment)	R	D	R	A D (open hearing)			✓	✓
Removal of designated mineral resource lands status (reviewed as a comprehensive plan amendment)	R	D	R	A D (open hearing)			✓	✓

The above changes to Table 2 in section 20.60.020 correct the table to reflect the process of an application to be added to or removed from the designated mineral lands map. This process would be done through a Comprehensive Plan Amendment. This is referenced in TCC 20.30B.040, and details on what information must be submitted with a comprehensive plan amendment to revise the designated mineral lands map is included within the policy language of Chapter 3.

Commented [MT20]: This is a new section (added since 1/16/19 PC Meeting) that revises the permit review matrix to be consistent with TCC 20.30B and the comprehensive plan.

Application for inclusion or removal is a comprehensive plan amendment.

Commented [MT21]: This is a revision added since the 1/16/19 PC Draft.

This revision is to correct the name of the Chapter. It is item A-15 on the official Development Code Docket (2019). Because it is in the zoning code, this title change requires planning commission review.